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PATENT

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J. Douglas
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(N.E.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Greenbaum
 Appl. No. : 09/300,139
 Filed : April 27, 1999
 For : Multi Rate Codec
 Examiner : August 14, 2002
 Examiner : Senfi, Behrooz

) Group Art Unit 2613

) CERTIFICATE OF FAX
) TRANSMISSION) I hereby certify that this correspondence
) and all marked attachments are being
) transmitted via facsimile to Examiner
) Behrooz Senfi, Fax No. (703) 872-9314
) of the USPTO on the date shown below:

) November 8, 2002

) (Date)

)
) Eric M. Nelson, Reg. No. 43,829

Please Enter
12/1/02

RESPONSE

United States Patent and Trademark Office
 P.O. Box 2327
 Arlington, VA 22202
 ATTENTION BOX: AF

Dear Sir:

In response to the Office Action, dated August 14, 2002, Applicant has the following comments.

In the Office Action, the Examiner rejected Claims 1-12, 14-17, 19, 20, 22, 24-32, 34-42, 44, and 45 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application, 2001/0013952, to Boon (hereinafter "Boon"). As discussed with the Examiner on November 1, 2002, published applications are not prior art under 35 U.S.C. § 102(e) for pre PG-PUB applications. M.P.E.P. 2136.01 states "[w]hen examining a pre PG-PUB application (see MPEP § 2136), a U.S. patent must issue, or SIR must be published before it can be used as a referenced in a 35 U.S.C. § 102(e) rejection." The present application is a pre-PG PUB application since it was filed prior to November 29, 2000. See M.P.E.P. § 2136. Since the present application is a

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pre PG-PUB applications, Boon--a published patent application, cannot serve as a basis for rejection under 35 U.S.C. § 102(e).

Claims 13, 18, 21, 23, 33, and 43, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boon in view of US. Patent Application No. 2001/0038674, to Trans. Applicant respectfully submits that Trans is also not prior art for the reasons discussed above.

Furthermore, Applicant also maintains that the present claims are patentable over Boon and Trans for the reasons identified in the Response, filed May 15, 2002.


Summary

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Nov. 8, 2002

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